

Council Communication

Department: Community Development Case/Project No.: URN-09-002	Ordinance No.: N/A Resolution No.: 09-245	City Council: 8-24-09 First Reading: N/A Second Reading: N/A Third Reading: N/A Public Hearing: N/A
Subject/Title		
2009 Amendment to the Bluffs Center I Urban Renewal Plan		
Location		
Downtown Council Bluffs – bounded on the north by Kanesville Boulevard, Washington Avenue and Avenue B; on the south by Pierce Street, Willow Avenue and 2 nd Avenue; on the west by the Union Pacific right-of-way (near 11 th Street); and on the east by Benton Street		
Background/Discussion		
<u>Background</u> In March of 1969, City Council adopted the Bluffs Center I Urban Renewal Plan. This plan was intended to assist with the acquisition of land, removal of blighted, incompatible or undesirable land uses, improvement of public infrastructure and facilities and private development or redevelopment projects. For the past four decades the City of Council Bluffs has been involved in a series of projects and programs designed to achieve the above objectives and overcome blight and obsolescence within the downtown area and surrounding neighborhoods. During this time, the Urban Renewal Plan has been amended numerous times to reflect the addition and completion of projects, the addition of area and legislative changes. The urban renewal plan is again in need of amending, to update proposed project area activities, including costs and public debt and to modify the effective term of the plan.		
<u>Discussion</u> The first step in amending the Bluffs Center I Urban Renewal Project Area is the adoption of a resolution of necessity. This resolution will cause several actions. These actions include directing staff to amend the urban renewal plan, establishing a date for consultation with other taxing jurisdictions, City Planning Commission hearing and review, setting a date for City Council public hearing and other appropriate legal notices. A resolution, which calls for these activities, has been prepared and is attached for your review and consideration. This resolution establishes the following timeframe: <div style="margin-left: 40px;"><div>9-8-09 City Planning Commission hearing and review</div><div>9-10-09 Consultation meeting to be held with other taxing jurisdictions</div><div>9-28-09 City Council public hearing on the amended urban renewal plan</div></div>		
Staff Recommendation		
Staff recommends City Council adopt the resolution of necessity directing staff to amend the Plan, set the dates for a consultation and public hearing on the 2009 Amendment to the Bluffs Center I Urban Renewal Plan and Area.		
Attachments		
Resolution of Necessity and map		

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department



Aerial Photo of Urban Renewal Area

Council Bluffs Downtown

Council Bluffs, IA



400 Cross Barter Street, Inc. Landscape Architecture, Planning and Urban Design
900 Parkview St. Suite 100 Omaha, NE 68102-4138
414 • 01st St. Des Moines, IA 50319-2744
Project No. 22456150

(This Notice to be posted)

NOTICE AND CALL OF PUBLIC MEETING

Governmental Body: The City Council of the City of Council Bluffs, State of Iowa.

Date of Meeting: August 24, 2009.

Time of Meeting: 7 o'clock P.M.

Place of Meeting: Council Chambers, City Hall, 209 Pearl Street,
 Council Bluffs, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for the meeting is as follows:

- Resolution setting dates of a consultation and a public hearing on a proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan in the City of Council Bluffs, State of Iowa.

Such additional matters as are set forth on the additional _____ page(s) attached hereto.
(number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of the governmental body.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

August 24, 2009

The City Council of the City of Council Bluffs, State of Iowa, met in regular session, in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at 7 o'clock P.M., on the above date. There were present Mayor Thomas P. Hanafan, in the chair, and the following named Council Members:

Absent: _____

* * * * *

Council Member _____ then introduced the following proposed Resolution entitled "RESOLUTION SETTING DATES OF A CONSULTATION AND A PUBLIC HEARING ON A PROPOSED 2009 AMENDMENT TO THE BLUFFS CENTER I URBAN RENEWAL PLAN IN THE CITY OF COUNCIL BLUFFS, STATE OF IOWA", and moved that the same be adopted. Council Member _____ seconded the motion to adopt. The roll was called and the vote was,

AYES: _____

NAYS: _____

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. _____

RESOLUTION SETTING DATES OF A CONSULTATION AND
A PUBLIC HEARING ON A PROPOSED 2009 AMENDMENT
TO THE BLUFFS CENTER I URBAN RENEWAL PLAN IN THE
CITY OF COUNCIL BLUFFS, STATE OF IOWA

WHEREAS, pursuant to Chapter 403, Code of Iowa, this City Council adopted an Urban Renewal Plan entitled Bluffs Center I Urban Renewal Plan on March 3, 1969 and said plan was filed of record in the office of the Pottawattamie County Recorder on June 3, 1970, in Book 1506, Page 350; and

WHEREAS, the Council Bluffs City Council did amend the Bluffs Center I Urban Renewal Plan by resolution adopted on July 6, 1971; and

WHEREAS, the Council Bluffs City Council did, pursuant to resolution passed on April 2, 1973, approve an amended Bluffs Center I Urban Renewal Plan, which amendatory resolution was filed of record in the office of the Pottawattamie County Recorder on October 24, 1973, at Book 73, Page 18747; and

WHEREAS, the Council Bluffs City Council did, pursuant to resolution passed on September 4, 1973, approve an amended Bluffs Center I Urban Renewal Plan, which amendatory resolution was filed of record in the office of the Pottawattamie County

Recorder on October 24, 1973, at Book 73, Page 18803, and which amended Urban Renewal Plan is filed of record at Book 73, Pages 18754 through 18802; and

WHEREAS, the Council Bluffs City Council did, pursuant to resolution passed on April 1, 1974, approve an amended Bluffs Center I Urban Renewal Plan. which amendatory resolution was filed of record in the office of the Pottawattamie County Recorder on September 5, 1975, at Book 76, Page 4023; and

WHEREAS, the Council Bluffs City Council did, pursuant to resolution passed on August, 19, 1975, approve an amended Bluffs Center I Urban Renewal Plan, which amendatory resolution was filed of record in the office of the Pottawattamie County Recorder on September 5, 1975, at Book 76, Page 4028; and

WHEREAS, the Council Bluffs City Council did, pursuant to Resolution No. 84-442 passed on September 10, 1984, approve an amended Bluffs Center I Urban Renewal Plan; and

WHEREAS, the Council Bluffs City Council did, pursuant to Resolution No. 87-573 passed on December 14, 1987, approve an amended Bluffs Center I Urban Renewal Plan; and

WHEREAS, the Council Bluffs City Council did, pursuant to Resolution No. 90-008 passed on January 8, 1990, approve an amended Bluffs Center I Urban Renewal Plan; and

WHEREAS, the Council Bluffs City Council did, pursuant to Resolution No. 93-230 passed on October 25, 1993, approve an amended Bluffs Center I Urban Renewal Plan; and

WHEREAS, pursuant to Resolution No. 03-132, this City Council adopted the Downtown Redevelopment Plan for Council Bluffs on June 9, 2003 to provide the necessary guidance for future private and public redevelopment projects within the downtown planning area; and

WHEREAS, the Council Bluffs City Council did, pursuant to Resolution No. 03-218 passed on September 22, 2003, approve an amended Bluffs Center I Urban Renewal Plan; and

WHEREAS, this Urban Renewal Area, as amended, currently includes and consists of:

Beginning at the intersection of the westerly Right-of-Way line of Pearl Street and the existing centerline of Willow Avenue; thence

northwesterly along said centerline of Willow to the existing centerline of South 8th Street; thence northerly along said centerline of South 8th Street to the existing centerline of 2nd Avenue; thence westerly along said centerline of 2nd Avenue to a point on the easterly right-of-way line of the Chicago Northwestern Railroad; thence northerly along said railroad right-of-way to the existing centerline of Avenue B; thence easterly along said centerline of Avenue B to the existing centerline of North 8th Street; thence north along said centerline of North 8th to the centerline of Washington Avenue; thence easterly and southeasterly along said centerline of Washington Avenue to a point on the north right-of-way line of Kanesville Boulevard; thence northeasterly along the northerly right-of-way line of Kanesville Boulevard to its intersection with the westerly right-of-way line of Oakland Avenue; thence northerly along the westerly right-of-way line of Oakland Avenue, 130 feet; thence easterly across Oakland Avenue to a point on the easterly right-of-way line of Oakland Avenue, said point being 130 feet north of the northerly right-of-way line of Kanesville Boulevard; thence continuing east-northeasterly along a line being 130 north of and parallel with the north right-of-way line of Kanesville Boulevard to the easterly right-of-way line of North Second Street; thence southerly along the easterly right-of-way line of North Second Street to its intersection with the north right-of-way line of Kanesville Boulevard; thence easterly along the northerly right-of-way line of Kanesville Boulevard to its intersection with the easterly right-of-way line of Benton Street; thence southeasterly across Kanesville Boulevard along the easterly right-of-way line of Benton Street to its intersection with the northerly right-of-way line of Broadway; thence southeasterly across Broadway to the southerly right-of-way line of Broadway; thence southwesterly along the southerly right-of-way line of Broadway to the easterly right-of-way line of Stutsman Street; thence southeasterly along the easterly right-of-way line of Stutsman Street, across Pierce Street to its intersection with the southerly right-of-way line of Pierce Street; thence southwesterly along the southerly right-of-way line of Pierce Street, across Pierce Street to its intersection with the easterly right-of-way line of Park Avenue; thence southeasterly along the easterly right-of-way line of Park Avenue 382.5 feet; thence southwesterly across Park Avenue to the southeast corner of Lot 2, Original Plat 155; thence southwesterly along the south line of said Lot and the south line at Original Plats 160 and 163 and the southwesterly prolongation thereof to the westerly right-of-way line of Glen Avenue; thence northwesterly along the westerly right-of-way line

of Glen Avenue to the southeastern corner of Lot 4, Purple's Subdivision; thence southwesterly along the south line of said Lot, and the prolongation thereof, to the east line of Lot 13, Original Plat 175; thence southeasterly along the easterly line of said Lot, 19 feet to the northeast corner of Original plat 239; thence southerly along the east line of said Lot, and the southerly prolongation thereof, 90 feet; thence northwesterly, on a line perpendicular to the easterly right-of-way line of Bluff Street, 36 feet; thence southerly on a line parallel to the easterly right-of-way line of Bluff Street, 178 feet; thence westerly on a line perpendicular to the easterly right-of-way line of Bluff Street, being along the south line of Original Plat 239, and also being along the north line of Lot 1, Block 1 in Jackson's Addition to the northeast corner of Lot 16, Block 1 Jackson's Addition; thence southerly along the easterly lines of Lots 16, 15, 14, 13, 12, 11, 10 and 9 in said Block 1 of Jackson's Addition and along its southerly prolongation, to a point on the southerly right-of-way line of Willow Avenue; thence northwesterly along the southerly right-of-way line of Willow Avenue to its intersection with the westerly right-of-way line Pearl Street; thence northerly along said westerly right-of-way line of Pearl Street to the centerline of Willow Avenue and the Point of Beginning.

WHEREAS, it is desirable that these areas be redeveloped as part of the overall redevelopment area covered by the Amendment;

WHEREAS, City staff has caused there to be prepared a form of 2009 Amendment to the Plan, a copy of which has been placed on file for public inspection in the office of the City Clerk and which is incorporated herein by reference, the purpose of which is to update proposed project area activities, to update estimated costs and public debt and to modify the effective term of the Bluffs Center I Urban Renewal Plan; and

WHEREAS, the Iowa statutes require the City Council to submit the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan to the Planning and Zoning Commission for review and recommendation as to its conformity with the General Plan for development of the City as a whole prior to Council approval of such Amendment, and further provides that the Planning and Zoning Commission shall submit its written recommendations thereon to this Council within thirty (30) days of its receipt of such proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan; and

WHEREAS, the Iowa statutes further require the City Council to notify all affected taxing entities of the consideration being given to the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan and to hold a consultation with such taxing entities with respect thereto, and further provides that the designated

representative of each affected taxing entity may attend the consultation and make written recommendations for modifications to the proposed division of revenue included as a part thereof, to which the City shall submit written responses as provided in Section 403.5, as amended; and

WHEREAS, the Iowa statutes further require the City Council to hold a public hearing on the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan subsequent to notice thereof by publication in a newspaper having general circulation within the City, which notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the Amendment and shall outline the general scope of the urban renewal project under consideration, with a copy of the notice also being mailed to each affected taxing entity.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, STATE OF IOWA:

Section 1. That the consultation on the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan required by Section 403.5(2) of the Code of Iowa, as amended, shall be held on the 10th day of September, 2009, in the Community Development Department Conference Room, 403 Willow Avenue, Council Bluffs, Iowa, at 10 o'clock A.M., and the Designated Representative is hereby appointed to serve the City for purposes of conducting the consultation, receiving any recommendations that may be made with respect thereto and responding to the same in accordance with Section 403.5(2).

Section 2. That the City Clerk is authorized and directed to cause a notice of such consultation to be sent by regular mail to all affected taxing entities, as defined in Section 403.17(1A), along with a copy of the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan, the notice to be in substantially the following form:

NOTICE OF A CONSULTATION TO BE HELD
BETWEEN THE CITY OF COUNCIL BLUFFS, STATE
OF IOWA AND ALL AFFECTED TAXING ENTITIES
CONCERNING THE PROPOSED 2009 AMENDMENT TO
THE BLUFFS CENTER I URBAN RENEWAL PLAN FOR
THE CITY OF COUNCIL BLUFFS, STATE OF IOWA

The City of Council Bluffs, State of Iowa will hold a consultation with all affected taxing entities, as defined in Section 403.17(1A) of the Code of Iowa, as amended, commencing at 10 o'clock A.M. on September 10, 2009, in the Community Development Department Conference Room, 403 Willow Avenue, Council Bluffs, Iowa concerning a proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan, a copy of which is attached hereto.

Each affected taxing entity may appoint a representative to attend the consultation. The consultation may include a discussion of the estimated growth in valuation of taxable property included in the proposed Urban Renewal Area, the fiscal impact of the division of revenue on the affected taxing entities, the estimated impact on the provision of services by each of the affected taxing entities in the proposed Urban Renewal Area, and the duration of any bond issuance included in the Amendment.

The designated representative of any affected taxing entity may make written recommendations for modifications to the proposed division of revenue no later than seven days following the date of the consultation. The Designated Representative of the City of Council Bluffs, State of Iowa, shall submit a written response to the affected taxing entity, no later than seven days prior to the public hearing on the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan, addressing any recommendations made by that entity for modification to the proposed division of revenue.

This notice is given by order of the City Council of the City of Council Bluffs, State of Iowa, as provided by Section 403.5 of the Code of Iowa, as amended.

Dated this 1st day of September, 2009.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

(End of Notice)

Section 3. That a public hearing shall be held on the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan before the City Council at its meeting which commences at 7 o'clock P.M. on September 28, 2009, in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa.

Section 4. That the City Clerk is authorized and directed to publish notice of this public hearing in the "Daily Nonpareil", once on a date not less than four (4) nor more than twenty (20) days before the date of the public hearing, and to mail a copy of the notice by ordinary mail to each affected taxing entity, such notice in each case to be in substantially the following form:

(One publication required)

NOTICE OF PUBLIC HEARING TO CONSIDER
APPROVAL OF A PROPOSED 2009 AMENDMENT TO
THE BLUFFS CENTER I URBAN RENEWAL PLAN FOR
AN URBAN RENEWAL AREA IN THE CITY OF
COUNCIL BLUFFS, STATE OF IOWA

The City Council of the City of Council Bluffs, State of Iowa, will hold a public hearing before itself at its meeting which commences at 7 o'clock P.M. on September 28, 2009 in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, to consider adoption of a proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan (the "Amendment") concerning an Urban Renewal Area in the City of Council Bluffs, State of Iowa, legally described as follows:

Beginning at the intersection of the westerly Right-of-Way line of Pearl Street and the existing centerline of Willow Avenue; thence northwesterly along said centerline of Willow to the existing centerline of South 8th Street; thence northerly along said centerline of South 8th Street to the existing centerline of 2nd Avenue; thence westerly along said centerline of 2nd Avenue to a point on the easterly right-of-way line of the Chicago Northwestern Railroad; thence northerly along said railroad right-of-way to the existing centerline of Avenue B; thence easterly along said centerline of Avenue B to the existing centerline of North 8th Street; thence north along said centerline of North 8th to the centerline of Washington Avenue; thence easterly and southeasterly along said centerline of Washington Avenue to a point on the north right-of-way line of Kanesville Boulevard; thence northeasterly along the northerly right-of-way line of Kanesville Boulevard to its intersection with the westerly right-of-way line of Oakland Avenue; thence northerly along the westerly right-of-way line of Oakland Avenue, 130 feet; thence easterly across Oakland Avenue to a point on the easterly right-of-way line of Oakland Avenue, said point being 130 feet north of the northerly right-of-way line of Kanesville Boulevard; thence continuing east-northeasterly along a line being 130 north of and parallel with the north right-of-way line of Kanesville Boulevard to the easterly right-of-way line of North Second Street; thence southerly along the easterly right-of-way line of North Second Street to its intersection with the north right-of-way line of Kanesville Boulevard; thence easterly along the northerly right-of-way line of Kanesville Boulevard to its intersection with the easterly right-of-way line of Benton Street; thence southeasterly across

Kanesville Boulevard along the easterly right-of-way line of Benton Street to its intersection with the northerly right-of-way line of Broadway; thence southeasterly across Broadway to the southerly right-of-way line of Broadway; thence southwestward along the southerly right-of-way line of Broadway to the easterly right-of-way line of Stutsman Street; thence southeasterly along the easterly right-of-way line of Stutsman Street, across Pierce Street to its intersection with the southerly right-of-way line of Pierce Street; thence southwestward along the southerly right-of-way line of Pierce Street, across Pierce Street to its intersection with the easterly right-of-way line of Park Avenue; thence southeasterly along the easterly right-of-way line of Park Avenue 382.5 feet; thence southwestward across Park Avenue to the southeast corner of Lot 2, Original Plat 155; thence southwestward along the south line of said Lot and the south line at Original Plats 160 and 163 and the southwestward prolongation thereof to the westerly right-of-way line of Glen Avenue; thence northwestward along the westerly right-of-way line of Glen Avenue to the southeastern corner of Lot 4, Purple's Subdivision; thence southwestward along the south line of said Lot, and the prolongation thereof, to the east line of Lot 13, Original Plat 175; thence southeasterly along the easterly line of said Lot, 19 feet to the northeast corner of Original plat 239; thence southerly along the east line of said Lot, and the southerly prolongation thereof, 90 feet; thence northwestward, on a line perpendicular to the easterly right-of-way line of Bluff Street, 36 feet; thence southerly on a line parallel to the easterly right-of-way line of Bluff Street, 178 feet; thence westerly on a line perpendicular to the easterly right-of-way line of Bluff Street, being along the south line of Original Plat 239, and also being along the north line of Lot 1, Block 1 in Jackson's Addition to the northeast corner of Lot 16, Block 1 Jackson's Addition; thence southerly along the easterly lines of Lots 16, 15, 14, 13, 12, 11, 10 and 9 in said Block 1 of Jackson's Addition and along its southerly prolongation, to a point on the southerly right-of-way line of Willow Avenue; thence northwestward along the southerly right-of-way line of Willow Avenue to its intersection with the westerly right-of-way line Pearl Street; thence northerly along said westerly right-of-way line of Pearl Street to the centerline of Willow Avenue and the Point of Beginning.

which land is to be included as part of this amended Urban Renewal Area.

A copy of the Amendment is on file for public inspection in the office of the City Clerk, City Hall, City of Council Bluffs, Iowa.

The City of Council Bluffs, State of Iowa is the local public agency which, if such Amendment is approved, shall undertake the urban renewal activities described in such Amendment.

The general scope of the urban renewal activities under consideration in the Amendment is to rehabilitate, conserve and redevelop land, buildings and other improvements within such area through the elimination and containment of conditions of blight so as to improve the community through the establishment of effective land use controls, through use of an effective program of rehabilitation of existing buildings and elimination of those structures which cannot be economically rehabilitated, with a limited amount of acquisition, clearance, resale and improvement of land for various purposes specified in the Amendment. To accomplish the objectives of the Amendment, and to encourage the further development of the Urban Renewal Area, the Amendment provides that such special financing activities may include, but not be limited to, the making of loans or grants of public funds to private entities under Chapter 15A of the Code of Iowa. The City also may reimburse or directly undertake the installation, construction and reconstruction of substantial public improvements, including public buildings, public facilities such as parks, playgrounds, and recreational, community, educational, water, sewer or drainage facilities, or any other works which the City is otherwise empowered to undertake to be furnished, and also including streets, roads, sidewalks, ways or other places. The City also may acquire and make land available for development or redevelopment by private enterprise as authorized by law. The Amendment provides that the City may issue bonds or use available funds for such purposes and that tax increment reimbursement of such costs will be sought if and to the extent incurred by the City. The Amendment initially proposes specific public infrastructure or site improvements to be undertaken by the City, but provides that the Amendment may be amended from time to time to respond to development opportunities.

The proposed 2009 Amendment would update proposed project area activities, update estimated costs and public debt and modify the effective term of the Bluffs Center I Urban Renewal Plan.

All other provisions of the Plan would remain in full force and effect.

Any person or organization desiring to be heard shall be afforded an opportunity to be heard at such hearing.

This notice is given by order of the City Council of the City of Council Bluffs, State of Iowa, as provided by Section 403.5 of the City Code of Iowa.

Dated this 15th day of September, 2009.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

(End of Notice)

Section 5. That the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan, attached hereto as Exhibit A, for the proposed Urban Renewal Area described therein is hereby officially declared to be the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan referred to in the notices for purposes of such consultation and hearing and that a copy of the Amendment shall be placed on file in the office of the City Clerk.

Section 6. That the proposed 2009 Amendment to the Bluffs Center I Urban Renewal Plan be submitted to the Planning and Zoning Commission for review and recommendation as to its conformity with the General Plan for the development of the City as a whole, with such recommendation to be submitted in writing to this Council within thirty (30) days of the date hereof.

PASSED AND APPROVED this 24th day of August, 2009.

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

I, the undersigned City Clerk of the City of Council Bluffs, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the City hereto affixed this _____ day of _____, 2009.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

(SEAL)

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

NOTICE OF PUBLIC HEARING

_____, 2009.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

DLILLEBO/ 626831.1 /MSWord10342.093

Council Communication

Department: Community Development Offer To Buy City Property Applicant: Douglas and Jill Struyk	Resolution of Intent No. <u>09-246</u> Resolution to Dispose No. _____	Set Public Hearing: 08/24/09 Public Hearing: 09/14/09
Subject/Title		
Request of Douglas L. and Jill J. Struyk, 219 Carson Avenue, Council Bluffs, IA 51503 to purchase Lots 1 and 2, Block 2, Stutsman's Second Addition.		
Background/Discussion		
<p>Douglas and Jill Struyk have submitted an Offer to Buy Lots 1 and 2, Block 2, Stutsman's Second Addition located at the south corner of Grace and Bloomer Streets as shown on the attached map. The City acquired these vacant lots through a Tax Sale Deed, dated June 2, 2009. The property, which consists of two platted lots, measures 85 feet wide by 92 feet deep for a total of 7,820 square feet and is zoned R-3/Low Density Multi-Family Residential. The topography of the site is such that the elevation from street level rises approximately 40 feet.</p> <p>The applicants have offered the price of \$2,200.00. At \$0.50 per square foot, which is typical of City owned property disposals, the price would be \$3,910.00. They have indicated they would like to "clean up and use it as green space for neighborhood kids to play in. Future may be a residence or garage." (An accessory structure by itself would not be permitted.) Due to the topography on site, the parcel is unbuildable without significant amounts of grading. It is literally the side of a bluff. Because of this, the Community Development Department considers the amount offered to be reasonable.</p>		
Recommendation		
The Community Development Department recommends disposal of Lots 1 and 2, Block 2, Stutsman's Second Addition for the sum of \$2,200.00		
Attachment: Location map. Prepared By: Rebecca Sall, Planning Technician, Community Development Department		

OFFER TO BUY - STRUYK



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 09-246

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOTS 1 AND 2, BLOCK 2, STUTSMAN'S SECOND ADDITION.

WHEREAS, the City has received, from Douglas L. and Jill J. Struyk, an offer to buy Lots 1 and 2, Block 2, Stutsman's Second Addition located at the south corner of Grace and Bloomer Streets, and

WHEREAS, the Mayor and city staff recommends disposal of the above-referenced property under the terms and conditions set forth in the offer to buy.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City property legally described as Lots 1 and 2, Block 2, Stutsman's Second Addition located at the south corner of Grace and Bloomer Streets; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for September 14, 2009.

ADOPTED
AND
APPROVED:

August 24, 2009

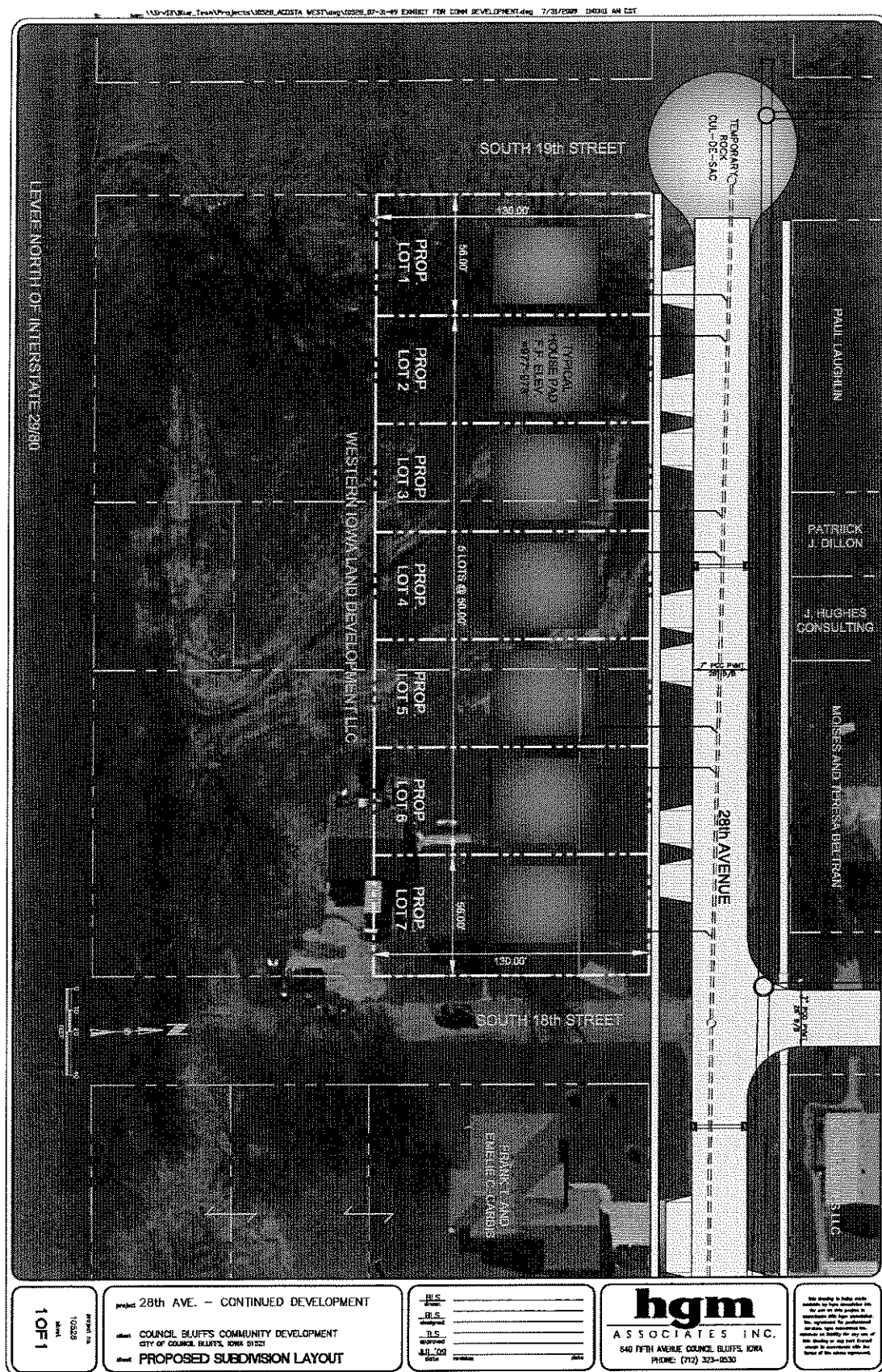
Thomas P. Hanafan Mayor

ATTEST: _____
Marcia L. Worden City Clerk

Council Communication

Department: Community Development Case/Project No.: N/A	Ordinance No.: N/A Resolution No.: 09-247	City Council: 8-24-09 First Reading: N/A Second Reading: N/A Third Reading: N/A Public Hearing: 9-14-09						
Subject/Title								
Phase I of the 28 th Avenue Extension Project - Grading Improvements (between South 18 th and 19 th Streets)								
Location								
28 th Avenue between South 18 th & 19 th Streets								
Background/Discussion								
<p><u>Background</u></p> <p>The City has been working on developing and redeveloping the area south of 23rd Avenue and west of Indian Creek for several years. This has involved the installation of infrastructure to support several residential infill subdivisions. To date, approximately 150 lots have been created. The project has been initiated and completed in several phases due to financial constraints. As revenues are secured additional phases can be initiated. The current phase of the project includes 28th Avenue from South 18th Street to South 19th Street. This phase of the project will result in the creation of seven (7) single family lots.</p> <p><u>Discussion</u></p> <p>This particular project will be developed in two phases. Phase I of the project will involve grading the site and Phase II will involve the sewer lateral extensions, storm sewer intakes and piping, water main extension and street paving. Phase II of the project is not expected to be let until the winter of 2009 with construction in the spring of 2010 and completion in June of 2010.</p> <p>The Community Development Department has determined a timeline for the grading portion of the project. It is anticipated that existing project fund balances and CDBG-R revenues will be sufficient to pay for project costs. In order to proceed, we are asking City Council to set a public hearing on the plans, specifications and form of contract. This public hearing shall be held on September 14, 2009 at 7:00 p.m. in the City Council Chambers. The rest of the timeline shall be as follows:</p> <div style="margin-left: 100px;"> <table style="border: none;"> <tr> <td style="padding-right: 20px;">September 29, 2009</td> <td>Bid letting</td> </tr> <tr> <td>October 12, 2009</td> <td>City Council award</td> </tr> <tr> <td>November 6, 2009</td> <td>Construction work complete</td> </tr> </table> </div>			September 29, 2009	Bid letting	October 12, 2009	City Council award	November 6, 2009	Construction work complete
September 29, 2009	Bid letting							
October 12, 2009	City Council award							
November 6, 2009	Construction work complete							
Staff Recommendation								
The Community Development Department recommends approval of the resolution directing the City Clerk to publish notice and set a public hearing on the plans, specifications and form of contract for Phase I of the 28 th Avenue Extension Project - Grading Improvements.								
Attachments								
Concept Plan								

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
 Approved by: Donald D. Gross, Director, Community Development Department



RESOLUTION NO. 09-247

A RESOLUTION DIRECTING THE CITY CLERK TO PUBLISH NOTICE AND SETTING A PUBLIC HEARING ON THE PLANS, SPECIFICATIONS AND FORM OF CONTRACT FOR PHASE I OF THE 28TH AVENUE EXTENSION PROJECT - GRADING IMPROVEMENTS.

WHEREAS, The City wishes to make improvements known as Phase I of the 28th Avenue Extension Project - Grading Improvements within the City, as therein described; and

WHEREAS, This project will involve the grading of 28th Avenue between South 18th Street and South 19th Street; and

WHEREAS, Such improvements are required to accommodate the further development of the area residentially; and

WHEREAS, The plans, specifications and form of contract for the grading improvements are on file in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby directed to set a public hearing on September 14, 2009 at 7:00 p.m. on the plans, specifications and form of contract for Phase I of the 28th Avenue Extension Project - Grading Improvements.

ADOPTED
AND
APPROVED:

August 24, 2009

Thomas P. Hanafan

Mayor

ATTEST:

Marcia L. Worden

City Clerk

COUNCIL COMMUNICATION

Department: <u>Public Works</u>	Ordinance No. _____	First Reading <u>August 24, 2009</u>
Case/Project No.: <u>FY08-36</u>	Resolution No. <u>09-248</u>	
Applicant: <u>Greg Reeder, Public Works Director</u>		

SUBJECT/TITLE

Council consideration of a resolution accepting the work of Lueder Construction, as complete and authorizing release of the retainage in the amount of \$168,836.82 after 30 days if no claims are filed in connection with the Public Works Fleet Maintenance Facility. Project #FY08-36.

BACKGROUND/DISCUSSION

- The existing fleet maintenance facility has been located at 12th Street and 2nd Avenue since 1984. The 11,850 square foot building was originally built by the phone company.
- The existing building and site are too small and antiquated to meet the needs of the fleet maintenance program for the city. Fleet Maintenance maintains all department vehicles including police and fire. The building cannot accommodate the volume, size, and complexity of today's public vehicles.
- Building deficiencies include functional, mechanical and environmental conditions (ventilation, heating, air conditioning, plumbing), and electrical.
- The conclusion of an analysis was a new facility was required.
- In 2002, the city acquired the 2.24 acre old CO-OP site at 8th Street & 10th Avenue for an expansion of Public Works facilities. Currently, sewer department pump station maintenance crews and the Parks Dept. building maintenance crews operate at that location.
- In Spring, 2007, the city acquired an additional 7.6 acres to the west of the CO-OP parcel. The long range plan is for all public works facilities to be relocated to this area.
- Fall of 2007, the city awarded a contract for site preparation of the area to site a new fleet maintenance facility.
- In May 2008, the city awarded a contract to Lueder Construction to build a 25,000 s. f., 12 bay fleet maintenance building.
- The work was part of project FY08-36 in the CIP and was funded by Gaming & General Obligation Bonds.
- | | |
|--------------------------|----------------|
| Original contract amount | \$3,277,000.00 |
| Change Orders | \$ 99,736.64 |
| Final contract amount | \$3,376,736.64 |
| Less previous payments | \$3,207,899.82 |
| Retainage due contractor | \$ 168,836.82 |

RECOMMENDATION

Approval of this resolution.

RESOLUTION
NO 09-248

**RESOLUTION ACCEPTING THE WORK OF
LUEDER CONSTRUCTION IN CONNECTION WITH
THE PUBLIC WORKS FLEET MAINTENANCE FACILITY
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$168,836.82
FY08-36**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Lueder Construction, Omaha, NE for the Public Works Fleet Maintenance Facility; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the City clerk; and
- WHEREAS, a request for final payment in the amount of \$168,836.82 to Lueder Construction has submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$168,836.82 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$168,836.82 payable to Lueder Construction from budget code G21600-659940, project #00252.

ADOPTED
AND
APPROVED

August 24, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: Public Works Ordinance No. _____ First Reading August 24, 2009
Case/Project No.: FY09-02C-1 Resolution No. 09-249
Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

Council consideration of a resolution accepting the work of Eriksen Construction Company, Inc. as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Digester Cover Repair. Project #FY09-02C-1.

BACKGROUND/DISCUSSION

- The Council Bluffs Water Pollution Control Plant was built in 1974. Included in the original design were four concrete tanks that treat and stabilize settled solids. These are called anaerobic digesters.
- The floating cover on Primary Digester #1 had some damaged due to the highly corrosive bio-gas. CIP project # FY09-02C-1 repaired the floating cover, applied protective coatings to the steel components, and replaced the gas mixing equipment.
- This project will extend its useful service life another 20 years or more.
- The council previously approved change orders expanding the scope of the project to repair additional areas that were corroded and needing repair.
- This work is funded by the WPCP plant maintenance CIP.
- | | |
|--------------------------|--------------|
| Original contract amount | \$365,000.00 |
| Change Orders | \$103,685.19 |
| Final contract amount | \$468,685.19 |
| Less previous payments | \$446,413.27 |
| Retainage due contractor | \$ 22,271.92 |

RECOMMENDATION

Approval of this resolution.

Greg Reeder, Public Works Director

RESOLUTION
NO 09-249

**RESOLUTION ACCEPTING THE WORK OF
ERIKSEN CONSTRUCTION COMPANY, INC. IN CONNECTION WITH
THE DIGESTER COVER REPAIR
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$22,271.92
FY09-02C-1**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Eriksen Construction Company, Inc. for the Eriksent Construction Company, Inc.; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the City clerk; and
- WHEREAS, a request for final payment in the amount of \$22,271.92 to Eriksen Construction Company, Inc. has submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$22,271.92 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$22,271.92 payable to Eriksen Construction Company, Inc. from budget code G21800-631100, project #00265.

ADOPTED
AND
APPROVED

August 24, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: _____
Applicant: Dan Woellhof, CBO

Ordinance No. _____
Resolution No. 09-234

First Reading August 10, 2009

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the Assessment of Costs for Securing Certain Buildings within the City.

BACKGROUND/DISCUSSION

- The Building Division found certain vacant and unsecured buildings that were not being maintained by the owners. These buildings were not in compliance with Chapter 8.54 of the Municipal Code. The Building Division abated the nuisance according to code by contracting the buildings to be secured.
- The Contractor was paid from the Capital Project Fund.
- The procedure of assessment of the abated nuisance, is in accordance to the *Uniform Code for the Abatement of Dangerous Buildings* as adopted and amended. The procedure is that when the City Clerk receives an Account of Expense Report, the City Council is to set a date for public hearing assessing the costs. Also, all objections or protests must be filed with the City Clerk **PRIOR** to the public hearing.
- These properties were declared a nuisance that had certain building which were secured as follows:

Property Address	Addition	Blk	Lot	Parcel #	Charged	%10 Admin Fee	Total	Done
1418 28 th Avenue	Railroad Addition			7444 02 458 003	\$331.00	\$33.10	\$364.10	05/15/09
3563 5 th Avenue	Brown Subdivision	28	15	7544 33 254 001	\$199.00	\$19.90	\$218.90	03/29/09
357 Scott Street	Mill Addition	1	1	7544 25 338 028	\$343.00	\$34.30	\$377.20	02/10/09
1421 2 nd Avenue	Beers Subdivision	32	6	7544 35 211 002	\$470.00	\$47.00	\$517.00	01/03/09
1421 2 nd Avenue	Beers Subdivision	32	6	7544 35 211 002	\$291.40	\$29.14	\$320.54	05/18/09

RECOMMENDATION

Approval of this resolution.

Greg Reeder, Public Works Director

RESOLUTION
NO 09-234

**RESOLUTION APPROVING THE ASSESSING OF COSTS
FOR SECURING CERTAIN BUILDINGS WITHIN THE
CITY OF COUNCIL BLUFFS, IOWA**

- WHEREAS: the Building Division of the Public Works Department of the City of Council Bluffs, Iowa, has contracted for the securing of certain buildings; and
- WHEREAS: the City now desires to assess the costs for this project back to the properties that had buildings that were secured; and
- WHEREAS: a Notice of Public Hearing was published as required by law, and a public hearing was held on August 10, 2009.
- WHEREAS: the city clerk received the Building Official's Account of Expense Report date June, 2009, regarding securing expense at 1418 28th Avenue, 3563 5th Avenue, 357 Scott Street, and 1412 2nd Avenue

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk hereby approve for the assessment of the costs for certain projects back to the properties that had buildings that were secured.

ADOPTED
AND
APPROVED

August 10, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, Acting City Clerk

COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. _____

First Reading August 24, 2009

Case/Project No.: FY10-06B

Resolution No. 09-250

Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting September 2, 2009 at 10:00 a.m. as the date and time for the bid opening for East 29th Avenue Sewer Extension. Project #FY10-06B.

BACKGROUND/DISCUSSION

- Recently, Public Works was approached by a resident of E. 29th Avenue with a request for a sanitary sewer extension on his street. His septic system has failed and due to his lot dimensions and terrain, rebuilding the septic is not an option. Currently there is no sanitary sewer on E. 29th Avenue.
- Proposed is a sewer extension that will service and benefit E. 29th Avenue, located north of Harry Langdon Blvd and east of I-80.
- Letters of support have been received from all five property owners of six parcels benefitted. One additional parcel on the street is already connected to the sewer. Two property owners will tap-on to the new sewer immediately.
- The benefitted area of this project contains 9 acres. CBPW estimates that at ultimate build-out of the benefitted area could reasonable contain 13 lots. In the benefitted area there are 5 existing single family homes and 8 more that could be built along E. 29th Avenue, each with 55 foot frontages.
- The engineering estimate is \$130,000.00. The ultimate build out is 13 lots and the benefitted area is 9 acres. The anticipated Tap-on fee is:
 (\$130,000.00 x / 13 lots = \$10,000 per benefitted lot, **or**
 (\$130,000.00 x / 9 acres = \$14,400 per benefitted acre.

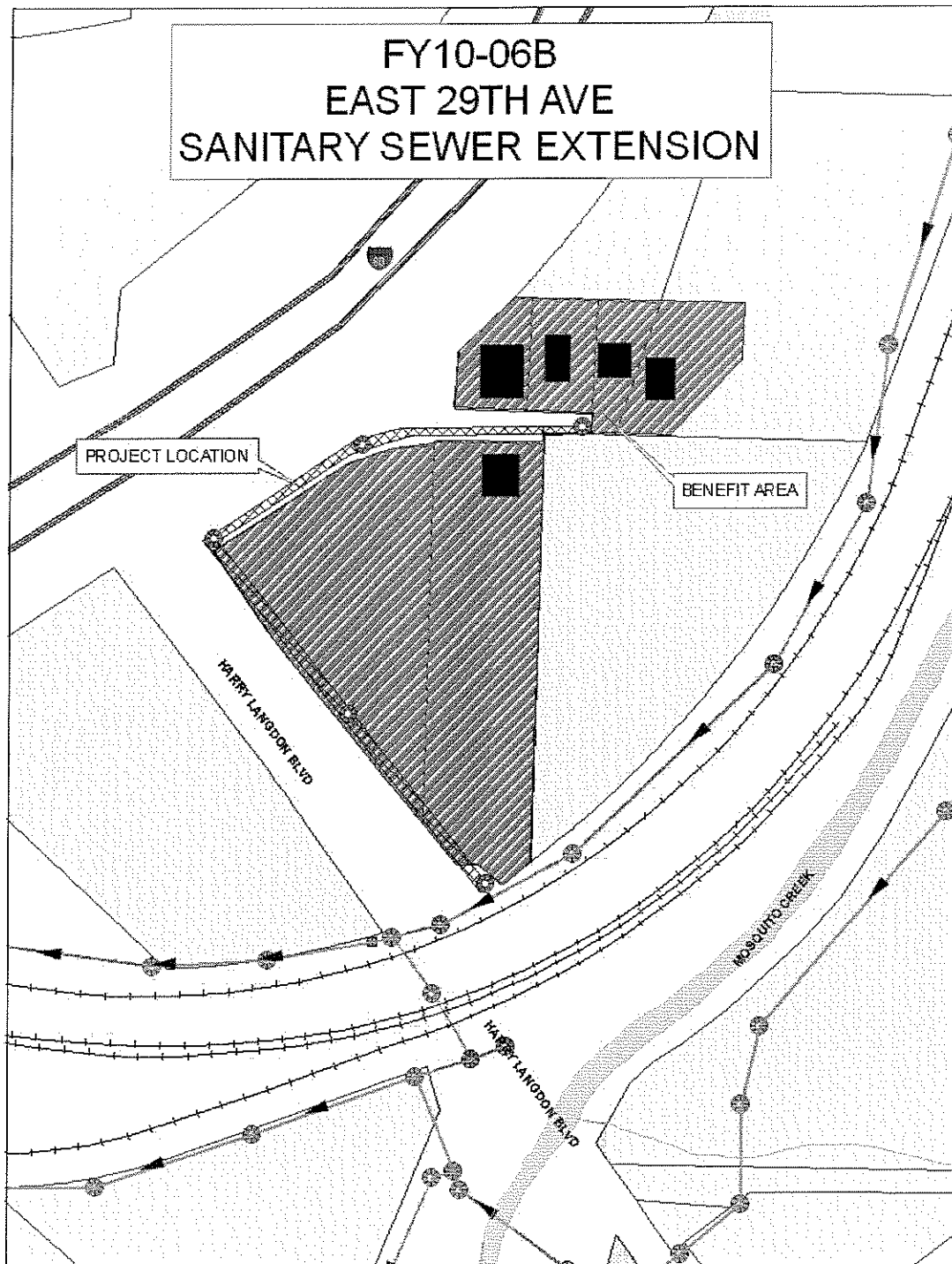
Final fees will be set with tap-on fee ordinance to council upon project completion. Homeowners will be directly responsible for lateral connections and abandonment of septic systems.

- CBPW recommends, that a per benefitted lot tap-on fee schedule be used to lower the cost to existing property owner while retaining the ability to be reimbursed when new houses connect to the sewer extension.

RECOMMENDATION

Approval of this resolution.

FY10-06B
EAST 29TH AVE
SANITARY SEWER EXTENSION



RESOLUTION
NO 09-250

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
EAST 29TH AVENUE SEWER EXTENSION
FY10-06B**

WHEREAS, the plans, specification, form of contract and cost estimate are on file in the office of the City Clerk of the City of Council Bluffs, Iowa for the East 29th Avenue Sewer Extension; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on August 24, 2009.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the East 29th Avenue Sewer Extension and the City Clerk is hereby authorized to advertise for bids for said project.

ADOPTED
AND
APPROVED August 24, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

Council Communication

Department: Community Development		City Council: 8-24-09 Planning Commission: 8-11-09
Case No. ZC-09-007	Ordinance No. <u>6042</u>	First Reading: 8-24-09 Second Reading: 9-14-09 Third Reading:
Applicant: LT Standing, LTD/Donald and Carol Jones and Community Development		
Subject Request of LT Standing, LTD/Donald and Carol Jones, 19332 Old Lincoln Highway, Council Bluffs, IA 51503 to rezone 1627 Avenue C (Lot 8, Block 7, Beer's Subdivision) from C-2 Commercial to R-3/Low Density Multi-Family Residential. The Community Development Department expanded the request to include rezoning Lots 4 through 7 (1611, 1621 and 1623 Avenue C) and Lots 9 and 10 (203 and 207 North 17 th Street), all in Block 7, Beer's Subdivision.		
Background The applicant is having difficulty selling his property at 1627 Avenue C due to the current commercial zoning which makes the residential use nonconforming. He initiated a rezoning request and the Community Development Department expanded it to include the other residential uses in this block, which are listed above. The R-3 designation is being requested because it is a natural extension of the existing R-3 zoning to the north, south and west. Land uses surrounding the subject properties include residential uses to the north, south and west with commercial uses to the east. Surrounding zoning is shown on the attached map. Emily Fedor, owner of 1621 and 1623 Avenue C, contacted staff requesting additional information. No effected owner included in the rezoning has voiced any opposition. One property owner within 200 feet also requested additional information. No adverse comments have been received from any City department or utility.		
Discussion The requested rezoning is consistent with the Land Use map of the 1994 Comprehensive Plan, which shows these properties as Multi-Family Residential and will bring several residential uses into compliance with the Zoning Ordinance.		
Recommendation The Community Development Department recommends rezoning Lots 4 through 10, Block 7, Beer's Subdivision from C-2 Commercial to R-3/Low Density Multi-Family Residential.		
Public Hearing Don Jones appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
Planning Commission Recommendation The Planning Commission recommends rezoning Lots 4 through 10, Block 7, Beer's Subdivision from C-2 Commercial to R-3/Low Density Multi-Family Residential since the rezoning is consistent with the Comprehensive Plan and will bring several residential uses into compliance with the zoning ordinance.		
VOTE: AYE 9 NAY 0 ABSTAIN 2 ABSENT 0 Motion: Carried		
Attachments: Map showing proposed rezoning area and surrounding zoning. Prepared By: Rebecca Sall, Planning Technician, Community Development Department		



PROPOSED REZONING
FROM C-2 TO R-3

R-3

C-2



CASE #ZC-09-007

ORDINANCE NO. 6042

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY GENERALLY LOCATED AT NORTH 17TH STREET AND AVENUE C, FROM C-2/COMMERCIAL TO R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.15 AND 15.10 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises generally located at North 17th Street and Avenue C (1611, 1621, 1623, and 1627 Avenue C and 203 and 207 North 17th Street), legally described as follows:

Lots 4 through 10, Block 7, Beer's Subdivision in Council Bluffs, Pottawattamie County, Iowa, from its present designation as C-2/Commercial to R-3/Low Density Multi-Family Residential, as set forth and defined in Chapters 15.15 and 15.11 of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND _____, 2009
APPROVED

THOMAS P. HANAFAN Mayor

Attest: _____
MARCIA L. WORDEN City Clerk

FIRST CONSIDERATION: August 24, 2009
SECOND CONSIDERATION: September 14, 2009
PUBLIC HEARING: _____
THIRD CONSIDERATION: _____

Council Communication

Department: Health Dept. Case/Project No. Applicant.	Ordinance No. <u>6041</u>	First Reading: Aug. 10, 2009 Second Reading Third Reading _____
Subject/Title		
<p>AN ORDINANCE to amend Chapter 4.21 “Urban Deer Management Program” of the 2005 Municipal Code by amending Section 4.21.020 “Hunting regulations”, to include areas designated as R1, R2, and R3 on private property totaling three (3) acres or more; and by enacting a new Section 4.21.025 “Feeding prohibited”.</p>		
Background/Discussion		
<ul style="list-style-type: none">• The population of white tailed deer in Council Bluffs has grown to a number that has created nuisance and safety concerns as it relates to the destruction/damage to personal property.• The city implemented the Urban Deer Management Program last year (2008).• 43 antlerless deer were taken with the program from areas designated A1 and A2.• 29 bow hunters passed the proficiency test.• It is the opinion of the Health Department that the Urban Deer Management Program is an effective tool in reducing the number of deer in our community and are proposing to expand the areas of hunting to areas designated R1, R2 and R3 on private property totaling three (3) acres or more.• At the request of the City Council, an ordinance prohibiting the recreational feeding of deer.		
Recommendation		
<p>Amend Ordinance 4.21 to include areas designated R1, R2, and R3 on private property totaling three (3) acres or more.</p> <p>Pass the ordinance prohibiting recreational feeding of deer within the city.</p>		

Donn Dierks
Department Head Signature

Mayor Signature

ORDINANCE NO. 6041

AN ORDINANCE to amend Chapter 4.21 “Urban Deer Management Program” of the 2005 Municipal Code by amending Section 4.21.020 “Hunting regulations”, to include areas designated as R1, R2, and R3 on private property totaling three (3) acres or more; and by enacting a new Section 4.21.025 “Feeding prohibited”.

PREAMBLE: Recreational feeding of deer often causes deer concentrations which develop into depredation and other public safety problems. Depredation of garden crops and landscaping plants is increasing as deer habitat decreases and deer populations increase within particular areas and neighborhoods in the City. Woodland plant communities within the City where deer concentrations are high are deteriorating as a result of those high deer populations. High deer populations are resulting in increased car/deer crashes within the community, causing public safety concerns and negative economic impacts such as increased car insurance premium costs. The intent of the City Council is not to unreasonably infringe upon the recreational enjoyment of City residents who observe wildlife and enhance wildlife habitat on their property. However, the purpose of this artificial feeding ban is to eliminate these deer attractions which, when combined with other management strategies, should reduce, over time, the depredation impacts to adjacent residents, as well as the safety of the traveling public on city streets and thoroughfares.

If any provision of this ordinance is in conflict with the provisions set forth in Section 8.74.010 “Discharge of firearms in city limits”, the provisions of this ordinance shall prevail.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. Chapter 4.21 “Urban Deer Management Program” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 4.21.020

“Hunting regulations” and enacting a new Section 4.21.020 “Hunting regulations”, to read as follows:

4.21.020 Hunting regulations. (a) Licensed bow hunters meeting the requirements established by the Iowa Department of Natural Resources (DNR) may hunt antlerless deer within the areas designated A1 or A2 on public or private property, and areas designated R1, R2, and R3 on private property totaling three (3) acres or more, under all of the following conditions:

1) Hunting may occur only on dates designated by DNR as bow-hunting season in the areas designated R1, R2, R3 on private property totaling three (3) acres or more, A1 or A2 by persons who are at least eighteen years of age and licensed for such hunting, and this license must be carried on his/her person;

2) Hunters must have written permission from the property owner, and must carry that written permission form on his/her person, and the portion of the Council Bluffs zoning map which verifies that the property is within the R1, R2, R3 on private property totaling three (3) acres or more, A1 or A2 zone;

3) Hunters cannot carry an uncased bow within 500 feet of any residence or within 150 feet of any city improved trail, road or building;

4) Hunters must take all shots from an elevated stand and shoot no further than 25 yards;

5) Hunters must comply with all Iowa DNR rules for hunting within the corporate limits of Council Bluffs; and

6) Hunters must participate in a bow hunter safety education course certification and an annual archery proficiency test certification; and

7) Hunters must take all deer meat to be processed or given to charity.

(b) Licensed bow hunters meeting the requirements established by the DNR may hunt antlered deer within the areas designated as A1 or A2 on public or private property and areas designated R1, R2, and R3 on private property totaling three (3) acres or more, under all of the following conditions:

1) All conditions set forth in Section 4.21.020(a)(1) through (a)(7).

2) A limited number of antlered deer may be taken according to an incentive program that may be adopted by the Council Bluffs Deer Task Force and approved by the DNR.

SECTION 2. Chapter 4.21 “Urban Deer Management Program” of the 2005 Municipal Code

of Council Bluffs, Iowa, be and the same is hereby amended by enacting a new Section 4.21.025

“Feeding prohibited”, to read as follows:

4.21.025 Feeding prohibited. (a) No person shall place or permit to be placed on the ground, or within five (5) feet of the ground surface, any grain, fodder, salt licks, fruit or vegetables, nuts, hay or other edible materials, which may reasonably be expected to intentionally result in deer feeding, unless items are screened or protected in a manner that prevents deer from feeding on them. Living fruit trees and vegetation shall be not considered as deer feeding.

(b) Exceptions. This prohibition shall not apply to:

1) Veterinarians, city animal control officers, county, state or federal game officials who are in the course of their duties, have deer in custody or under their management.

2) Persons authorized by the city of Council Bluffs to implement the deer management program approved by the City Council.

3) Any food placed upon the property for purposes of trapping or otherwise taking deer where such trapping or taking is pursuant to a permit issued by the Iowa Department of Natural Resources.

4) Persons feeding birds using self-enclosed feeding devices or containers.

5) The use of straw, hay or straw-related materials for erosion control, mulching, gardening or other landscape purposes.

(c) Enforcement. The Council Bluffs Health Director and the Council Bluffs Police Chief, or the Mayor's designee, shall enforce the provisions of this ordinance."

SECTION 3. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 6008, Section 1 (part), 2008.

SECTION 4. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED

August 10, 2009

THOMAS P. HANAFAN

Mayor

Attest: _____

MARCIA L. WORDEN

Acting City Clerk

First Consideration: 8/10/09
Second Consideration: 8/24/09
Public Hearing: None
Third Consideration: _____

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: _____
Applicant: _____

Ordinance No. 6036
Resolution No. _____

First Reading
Second Reading

July 27, 2009
Aug. 10, 2009

SUBJECT/TITLE

Consideration of:

- 1). a resolution authorizing the Mayor to execute an agreement with Redflex Traffic Systems Inc., for services associated with the Automated Red Light Enforcement Program.
- 2). a resolution expanding the red light photo enforcement program to 6 additional approaches.
- 3). amending Ordinance 9.16.055 Automated Red Light Enforcement.

BACKGROUND/DISCUSSION

- The city implemented the red light photo enforcement program almost four years ago (August, 2005).
- The first year of operation covered only 11 months with 10,095 tickets issued. Years two and three showed 10,416 and 10,013 tickets issued respectively. This last year of operation is on track to hit about 8,000 tickets.
- It is the opinion of the Police, Public Works, and Legal Departments that the cameras are an effective tool in reducing red light running and improving safety. Statistically the numbers are mixed.
- The Departments recommend not only a continuation of the program but an expansion of locations as well.
- Currently the City has seven approaches:
 - 7th Street and Willow Avenue (Southbound)
 - 8th and Broadway (Eastbound)
 - 8th and Broadway (Westbound)
 - 16th and Broadway (Eastbound)
 - 16th and Broadway (Westbound)
 - 21st and Broadway (Westbound)
 - 35th and Broadway (Eastbound)
- Proposed additional locations are:
 - South Expressway and 30th Avenue (Eastbound)
 - South Expressway and 30th Avenue (Northbound)
 - Kanesville Blvd. and Harrison St. (Eastbound)
 - Kanesville Blvd. and Harrison St. (Westbound)
 - 25th and Broadway (Eastbound)
 - 25th and Broadway (Westbound)

These intersections were selected based on accident history and observed problems with red light running.

- Redflex has performed very well in providing the photo enforcement service. For this reason a new contract is proposed. This contract provides for similar terms to the existing contract.
- The proposed contract is for 7 years (the existing is for 5 years).
The existing fee paid to Reflex is tiered at:

\$50	citations 01-119	paid per month per approach
\$40	citations 120-209	paid per month per approach
\$30	citations 210 +	paid per month per approach

The proposed fee structure is:

\$48	citations 0-100	paid per month per approach
\$40	citations 101-200	paid per month per approach
\$32	citations 201 +	paid per month per approach

- Currently the penalty assessed by the city for automated enforcement of a red light violation is \$65. At the time the program was initiated four years ago this matched the state penalty. Since then the state has increased the penalty twice and currently is \$106 including all court costs and fees.
- Proposed is an ordinance amendment that sets the photo detected red light violation penalty to match whatever the Iowa Code sets for running a red light.

RECOMMENDATION

In summary the Automated Red Light Enforcement Program has been an effective tool in reducing accidents and improving safety. Recommended is approval of

- (1) Resolution approving a seven year agreement with Redflex for the automated red light enforcement program.
- (2) Resolution approving 6 additional approaches for red light photo enforcement.
- (3) Amending Ordinance 9.16.055 changing the civil penalty for violation of automated red light enforcement to equal that set by Iowa Code for failing to obey a red light traffic signal.

ORDINANCE NO. 6036

AN ORDINANCE to amend Chapter 9.16 “Signs and Signals” of the 2000 Municipal Code of Council Bluffs, Iowa, by amending Section 9.16.055 “Automated red light enforcement” to amend the fine to the current schedule fine, including all surcharges and costs, as set by the Iowa Code.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 9.16 “Signs and signals” of the 2000 Municipal Code of Council

Bluffs, Iowa, be and the same is hereby amended by amending Section 9.16.055 “Automated red light enforcement”, to read as follows:

“9.16.055 Automated red light enforcement. (a) General. The city of Council Bluffs, in accordance with the police powers authorized it by the state of Iowa for governing safe traffic flow, may erect or cause to have erected an automated traffic enforcement system for making photographs, video, or digital images of vehicles that fail to obey red light traffic signals at intersections designated by the mayor or his/her designee. The system may be managed by the private contractor that owns and operates the requisite equipment with supervisory control vested in the city’s police department. Photographs, video, or digital images shall be provided to the police department by the contractor for review. The police department will determine which vehicle owners are in violation of the city’s red light ordinance and are to receive a notice of violation for the offense.

(b) Definitions.

(1) “Automated traffic enforcement system” shall mean an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller and to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control.

(2) “Vehicle owner” shall mean the person or entity identified by the Iowa Department of Transportation, or registered with any other state vehicle registration office, as the registered owner of a vehicle.

(c) Offense.

(1) The vehicle owner shall be liable for a fine as imposed below if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal for that vehicle’s direction is emitting a steady red light or red arrow.

(2) The violation may be rebutted by a showing that a stolen vehicle report was made on the vehicle encompassing the period in question.

(3) The citation will in no event be sent or reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the vehicle owner’s driving record.

(d) Penalty and Appeal.

(1) Any violation of subsection (c)(1) ~~above shall be considered a notice of violation for which a civil fine of sixty five dollars (\$65.00) shall be imposed, payable as directed on the citation.~~ shall be considered a civil violation for which a civil penalty equal to the current scheduled fine, including all surcharges and costs, as set by the Iowa Code for failing to obey a red light traffic signal shall be imposed, payable as directed on the citation.

(2) A recipient of an automated red light citation may dispute the citation by requesting an issuance of municipal infraction citation by the police department. Such request will result in a required court appearance by the recipient and in the scheduling of a trial before a judge or magistrate at the Pottawattamie County Courthouse. The issuance of a municipal infraction citation will cause the imposition of state mandated court costs to be added to the amount of the violation.

(3) If a recipient of an automated right light citation does not pay the fine by the stated due date or request a trial before a judge or magistrate, a municipal infraction will be issued to the recipient by certified mail from the police department. Said municipal infraction will result in a mandatory court appearance by the recipient as well as imposition of stated mandated court costs.”

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 5870, Section 1 (2005).

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED AND APPROVED _____, 2009

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN Acting City Clerk

First Consideration: July 13, 2009

Second Consideration: July 27, 2009

Public Hearing: None required

Third Consideration: